

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36401

LOUIS EUGENE CUNNINGHAM,)	2010 Unpublished Opinion No. 344
)	
Petitioner-Appellant,)	Filed: February 8, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
WARDEN RANDY BLADES,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Respondent.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Daniel C. Hurlbutt, District Judge.

Order dismissing petition for writ of habeas corpus, affirmed.

Louis Eugene Cunningham, Boise, appearing pro se.

Hon. Lawrence G. Wasden, Attorney General; William M. Loomis, Deputy Attorney General, Boise, for respondent.

WALTERS, Judge Pro Tem

This is an appeal from an order by the district court dismissing an application for a writ of habeas corpus. We affirm.

I.

BACKGROUND

Louis Eugene Cunningham, an inmate in the custody of the Idaho State Board of Correction, filed an application, pro se, with the District Court of the Fourth Judicial District in and for Ada County, Idaho. Cunningham sought a writ of habeas corpus directed at the warden of the penal institution where Cunningham was located in Ada County. In his application, Cunningham alleged that a number of errors occurred during the prosecution of his underlying criminal charges in Blaine County, Idaho, which is in the Fifth Judicial District. He also alleged that he was not receiving adequate medical care. For relief, he asked the district court to vacate his conviction and sentence.

The respondent filed a motion to dismiss the application, asserting that Cunningham had failed to establish an exhaustion of administrative remedies which was required as a predicate to relief on his application; that it was improper to use habeas corpus as a procedure to raise alleged errors in the underlying criminal proceeding; and that Cunningham did not sufficiently plead his claim of inadequate medical care. In reply, Cunningham filed a motion for summary judgment and a motion for sanctions.

The district court treated the respondent's motion to dismiss and Cunningham's motion for summary judgment as cross-motions for summary judgment. The court concluded that the claims raised by Cunningham with regard to alleged errors at his criminal trial were matters that properly should be asserted in a post-conviction relief action rather than by way of a petition for habeas corpus relief, and that such an action had to be filed in the court where Cunningham's conviction had been entered. The district court also held that Cunningham had failed to exhaust his administrative remedies before seeking habeas corpus relief on his claims of inadequacy of medical care. In the alternative, the district court held that even if Cunningham had demonstrated compliance with the exhaustion of remedies requirement, he had failed to show that there was deliberate indifference to his medical needs or that his rights against cruel and unusual punishment were violated by nonmedical conditions. Accordingly, the district court dismissed the application for a writ of habeas corpus. This appeal followed.

II.

STANDARD OF REVIEW

In an appeal from a summary judgment dismissing an application for habeas corpus relief, the appellate court is bound by the same standard of review as the trial court. *Freeman v. Idaho Department of Correction*, 138 Idaho 872, 875, 71 P.3d 471, 474 (Ct. App. 2003). A petition for a writ of habeas corpus, being a pleading analogous to a complaint, is governed by the Idaho Rules of Civil Procedure. *Freeman v. State, Department of Correction*, 115 Idaho 78, 79, 764 P.2d 445, 446 (Ct. App. 1988). Bound by the same standard of review as the trial court, we examine the record to determine whether there remains any genuine issue of material fact, and absent such issues, whether the moving party was entitled to judgment as a matter of law. I.R.C.P. 56(c); *Martin v. Spalding*, 133 Idaho 469, 471, 988 P.2d 695, 697 (Ct. App. 1998). We liberally construe the facts contained in the record and all reasonable inferences based thereupon in favor of the opposing party. *See Martin*, 133 Idaho at 471, 988 P.2d at 697. Unless

controverted, however, the allegations contained in a habeas corpus petition must be treated as true when considering whether that writ will issue. *Gawron v. Roberts*, 113 Idaho 330, 332, 743 P.2d 983, 985 (Ct. App. 1987).

III.

DISCUSSION

The district court correctly concluded that the portions of Cunningham's allegations relating to error in his criminal trial were matters controlled by the Uniform Post-Conviction Procedures Act, I.C. §§ 19-4901 through 19-4911 (UPCPA). Idaho Code § 19-4203(4) provides that:

Habeas corpus shall not be used as a substitute for, or in addition to, a direct appeal of a criminal conviction or proceedings under Idaho criminal rule 35 or the uniform post-conviction procedures act, chapter 49, title 19, Idaho Code, and the statutes of limitations imposed therein.

In *Abbott v. State*, 129 Idaho 381, 384, 924 P.2d 1225, 1228 (Ct. App. 1996), this Court stated that "substance and not form governs and it is immaterial whether the petition or application is labeled as one for habeas corpus or post-conviction relief." In other words, even though a petition may be titled as one for habeas corpus relief, if, in substance, the petition seeks relief that is afforded under the statutes relating to post-conviction relief, the petition will be processed accordingly. As long as the petition sets forth legitimate grounds for relief, this Court will consider the proceeding as one under the UPCPA. *Id.* In *Still v. State*, 95 Idaho 766, 519 P.2d 435 (1974), the Idaho Supreme Court determined that "it doesn't matter whether the proceeding is denominated as one for habeas corpus or for post-conviction relief, it is still necessary that the procedures of the Uniform Post-Conviction Procedure Act be followed." *Still*, 95 Idaho at 768, 519 P.2d at 437. Furthermore, the UPCPA, Idaho Code § 19-4902(a), requires that applications for post-conviction relief be filed in the "district court in which the conviction took place." As noted by the Idaho Supreme Court, "[t]he Act was designed to give the district court which made the initial determinations a chance to correct any mistakes or irregularities that occurred in that court [since] that court has before it all the facts required to make such a determination." *Still*, 95 Idaho at 768, 519 P.2d at 437.

In his petition, Cunningham asked for relief to have his conviction and sentence vacated, a remedy addressed by the UPCPA. The district court below concluded that Cunningham's application and its attachments clearly showed that he was convicted and sentenced in Blaine

County, Idaho, in the Fifth Judicial District and that there was no material issue of fact over that proposition.¹ Accordingly, because the petition was filed in the wrong court as an application for post-conviction relief, the district court dismissed the action as to its challenges to Cunningham's conviction. We find no error in the district court's determination in this regard. The district court's order dismissing Cunningham's application insofar as the allegations of error in the prosecution of the underlying criminal charges against Cunningham will be upheld.

With respect to the alleged inadequate medical treatment referred to in Cunningham's application, Cunningham did not identify the nature of such treatment nor give any specific details relating to the inadequacy of such treatment. The district court undertook a lengthy analysis both of medical care and of cruel and unusual punishment, under a consideration of conditions of confinement. The district court held that Cunningham had failed to show that he had exhausted administrative remedies as required by Idaho Code § 19-4206 before seeking relief through habeas corpus procedure. In the alternative, the district court held that even if Cunningham had demonstrated compliance with the exhaustion of remedies requirement, he failed to show that there was deliberate indifference to his medical needs or that his rights against cruel and unusual punishment have been violated by nonmedical conditions.

Again we find no error on the part of the district court. Idaho Code § 19-4206 provides that:

(1) Unless a petitioner who is a prisoner establishes to the satisfaction of the court that he is in imminent danger of serious physical injury, no petition for writ of habeas corpus or any other civil action shall be brought by any person confined in a state or county institution, or in a state, local or private correctional facility, with respect to conditions of confinement until all available administrative remedies have been exhausted . . .

(2) At the time of filing, the petitioner shall submit, together with the petition for writ of habeas corpus, a true, correct and complete copy of any documentation which demonstrates that he has exhausted administrative remedies described in subsection (1) of this section.

(3) If at the time of filing the petition for writ of habeas corpus the petitioner fails to comply with this section, the court shall dismiss the petition with or without prejudice.

¹ Summary dismissal of a petition for post-conviction relief is the procedural equivalent of summary judgment under I.R.C.P. 56. *Baldwin v. State*, 145 Idaho 148, 153, 177 P.3d 362, 367 (2008).

Cunningham made no claim in his petition that he was exempt from I.C. § 19-4206 because of an imminence of danger of physical injury. He failed to initially submit any documentation with his petition demonstrating that administrative remedies as to his conditions of confinement claims had been exhausted. Later, in his reply to the respondent's motion for dismissal, Cunningham included several documents which the district court then carefully reviewed. The court determined that none of the documentation submitted by Cunningham sufficiently demonstrated that Cunningham had exhausted administrative remedies before pursuing relief through habeas corpus procedure.

The district court correctly dismissed Cunningham's petition for habeas corpus as to the allegation of inadequacy of medical care, pursuant to I.C. § 19-4206, because Cunningham failed to establish, as a predicate, that the administrative remedies available to address such treatment had been exhausted.

IV.

CONCLUSION

The decision and order of the district court dismissing Cunningham's petition for a writ of habeas corpus is affirmed. No costs allowed.

Chief Judge LANSING and Judge GUTIERREZ, **CONCUR.**